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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,958	07/03/2003	Aristide Barone	P07990US00/MP	3554
881	7590	06/28/2004		
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			EXAMINER	MAYO, TARA L
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/611,958	BARONE, ARISTIDE	
	Examiner Tara L. Mayo	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/03/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed 03 July 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Specifically, Applicant did not provide a copy of French Patent No. 2,708,560 as required.

Claim Objections

3. Claims 1 through 6 are objected to because of the following informalities: minor grammatical errors, and inconsistent claim language.

In claim 1 on line 1, change “Method” to --A method--.

In claim 2 on line 1, change “Method” to --The method--.

In claim 3 on line 1, change “Balancing” to --A balancing--.

In claim 4 on line 1, change “Balancing” to --The balancing--. Repeat the correction for claims 5 and 6 both on line 1.

In claim 5 on line 3, delete “second”, or make an equivalent change thereto.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1 through 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Toth (U.S. Patent No. 5,441,367).

Toth '367, as seen in Figure 2, discloses a balancing jacket (10) for diving activities comprising:

with regard to claim 3,

an inflatable chamber (17) consisting of a base element substantially having a plan C-shape, the central portion (25) of said base element being shaped as a U by applying a back element (15) made of fabric having a complementary shape with respect to the U shape, thus obtaining a horseshoe structure with two end portions (21) extending forward substantially at a right angle starting from said horseshoe structure;

with regard to claim 4,

in which said tubular chamber is made with air-proof fabric (col. 3, lines 3 through 5), and constitutes the air chamber of the jacket; and

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with regard to claim 6,

in which said back element is made of a net fabric.

With regard to claims 1 and 2, the method steps recited therein are inherent to the method of making the device shown by Toth '367 in Figure 2.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toth (U.S. Patent No. 5,441,367) in view of Lehrer et al. (U.S. Patent No. 5,707,177).

Toth '367 discloses all of the features of the claimed invention with the exception of:
with regard to claim 5,

the tubular chamber containing a bladder constituting the air chamber of the jacket.

Lehrer et al. '177, as seen in Figures 1 through 3, show a balancing jacket (2) for diving activities comprising a plurality of inflatable chambers (4) each containing a bladder (20) and constituting the air chamber of the jacket for controlling the buoyancy of a diver.

With regard to claim 5, it would have been obvious to one having ordinary skill in the art of diving at the time of invention to modify the device shown by Toth '367 such that it would contain a bladder as taught by Lehrer et al. '177. The motivation would have been to implement a means by which to control the buoyancy of a diver.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TLM

14 June 2004



THOMAS B. WILL
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